

Attorney's Docket No. TN-170
Amendment AFTER FINAL

Serial No. 09/469,904
12/30/2003

so. Accordingly, the applicant respectfully traverses the rejection once again, requests further explanation on reconsideration, and allowance of all claims.

Under 37 CFR 1.104, Nature of examination, the rules by which examination must proceed spell out under subsection (d)(2):

"When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons."

Clearly, the "fact" that a "master website" existed in the prior art is not in evidence. The applicant pointed this out in the prior response, and the examiner even admitted to this truth. The PTO has failed to submit any affidavit showing otherwise, but instead relies upon argument that it "would be obvious" for it to exist.

Let us then look at the rationale the PTO has provided. In paragraph 4 of the Detailed Action the examiner has stated what he apparently believes is adequate to support continuing the rejection in the face of the applicant complaint.

"While Jolt does not explicitly disclose (sic) a master version of the web site on the server, Jolt shows that some parts of the web site are verbatim the same, such as the Daily Jolt logo and the navigation bar. Therefore, it would have been obvious to have a master web site, if only to provide the header, so that all customized sites would have a similar look, theme and feel, as shown by the similarities between page 2 and page 4."

Clearly, now that the applicant has explained how and taught in his patent application disclosure that this is a good way to do such a thing, it is *now* obvious, but obviousness in hindsight is NOT a permissible ground for rejection. The claims must have been obvious at the time the application was filed.

Further, there are alternative means by which one could have created "...customized sites (that) would have a similar look, theme and feel, as shown by the similarities between page 2 and page 4." For example, one could have

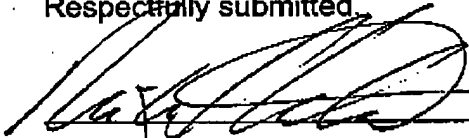
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established a template distributed to all who might be permitted to create such pages as pages 2 and 4. Or, one could have had multiple URLs to which a page creator could have referred in order to borrow pieces of a finished page. Or, there could be a filter page through which any pages referring to some feature of page 2 or 4 would have to pass in order to be posted. Or, there could be an active agent or daemon that shuts down all web-pages that have certain characteristics as are found on pages 2 and 4 except ones with hidden text fields that have the right passwords. The possibilities are probably endless. Nevertheless, there is no connection between the manner the applicant has chosen to do it, with its attendant inherent efficiencies and what is shown in the prior art, and the guesswork provided by the honorable examiner in light of the disclosure of the applicant does not establish such a connection.

Accordingly, the rejection stands respectfully traversed and reconsideration and allowance are respectfully requested. Alternatively, a prompt advisory action directed to furthering the prosecution of this application is requested to permit the applicant to consider its options.

Respectfully submitted,



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